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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,913	01/25/2006	Takazi Igami	F8979	7472

28107 7590 03/18/2008

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EXAMINER	
FLANIGAN, ALLEN J	

ART UNIT	PAPER NUMBER
3744	

MAIL DATE	DELIVERY MODE
03/18/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/565,913	**Applicant(s)** IGAMI, TAKAZI	
	Examiner Allen J. Flanigan	**Art Unit** 3744	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 January 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires *3* months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1 and 2*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Allen J. Flanigan/
Primary Examiner, Art Unit 3744

Continuation of 11. does NOT place the application in condition for allowance because: applicant's assertions that the instant rejection based on a prima facie finding of obviousness is based on improper hindsight reasoning is not persuasive. While it is true that In re Antonie can be argued to stand for the proposition that "a parameter must be recognized as a result-effective variable" for optimization to be characterized as routine and within the level of ordinary skill in the art, applicant must bear in mind that "Prior art is not limited just to the references being applied, but includes the understanding of one of ordinary skill in the art." MPEP 2141. Based on the cumbersome translation of Shinnaga et al. it is clear that both the purpose and the intended result of providing slits 4 at the bend portion 3 of protrusion 1 is clearly conveyed to one of ordinary skill in the art: The purpose is to provide paths for "wax material 2" (braze material) to flow by capillary action into the space where the crown 3 abuts the opposite wall to form a brazed joint. One of ordinary skill in the art would readily appreciate, even without explicit suggestion in Shinnaga et al., that the size and numbering of the slits would have material effect on the likelihood of the desired outcome being achieved. In considering extreme examples, providing only one or two such slits, or forming them too small would obviously hamper such capilarry flow and permit insufficient amount of filler to reach the joint. Providing slits too large and/or numerous would remove so much material from the bend that it would be likely to fracture. The level of ordinary skill in the art is believed to be sufficiently high that such matters would be self evident upon consideration of the disclosure of Shinnaga et al.

As for the Declaration filed by Mr. Shuko, it has been previously addressed in the Final Rejection mailed 8/13/2007. The Examiner additionally notes that it is not clear that the Declaration actually refers to the applied reference, not only because of the inconsistency between the published inventor names found in the English abstract of the Kokai JP02002071286A and that of the Declarant, but also because Mr. Shuko's declaration fails to specifically identify by number which Japanese Application his comments refer to. Also, for Mr. Shuko to assert factual that, "the present invention was completed by finding the facts through various experiments that the length and layout of the slit greatly affect reliability of brazing in the tube with slit and also greatly affect molding performance of the tube" implies a level of knowledge and participation with the invention that is the subject of the instant application that would ordinarily be associated with an inventor, although Mr. Shuko is currently not listed as such. Nor does Mr. Shuko's personal opinion, in presenting himself as a person skilled in the art in concluding the claimed invention to be unobvious, per se, overcome a conclusion that the claimed invention would nevertheless have been obvious to a typical person of ordinary skill in the art.